

## REMARKS

### Claims

Claims 1-4, 6, and 8-34 are under examination with claims 5 and 7 previously cancelled without prejudice or disclaimer.

### Allowability

Under the "Disposition of Claims" section of the Office Action Summary, claim 35 is recorded as "rejected claims." However, based on the Examiner's thorough analysis of the instant application and the examination of said claim on the merits, it appears that the disposition was transcribed in error. See, the "Detailed Action" section of the present Office Action and the entirety of the Office Action mailed January 10, 2006. It is kindly submitted that the subject matter contained in the claim is free of prior art and the claim further complies with the statutory requirements under § 112 and § 101. The Examiner is therefore courteously requested to hold the claim as "allowable."

### Rejection under 35 U.S.C. § 103 (a)

The rejection of claims 1-4, 6, and 8-34 under 35 U.S.C. § 103 (a) as being rendered obvious by Ghosal et al. (US 6,362,167) in view of Vatter et al (US 6,475,600) is respectfully traversed.

Ghosal specifically teaches that the extract blend of *Emblica officinalis* is isolated by treating the fruit pulp in dilute aqueous/alcoholic salt solution at 70°C (col. 4, lines 20-30). Ghosal does not teach a method of formulating an antioxidant blend at temperature below 60 °C, which is described in Applicants specification as important for preventing the decomposition of the antioxidants present in the claimed composition (see page 16, lines 11-14). Therefore, the compositions claimed are unobvious over the cited reference.

In the paragraphs bridging pages 6 and 7, the Office Action contends that "Ghosal establishes formulating the antioxidant composition at a temperature below 60°C." Applicants respectfully disagree with this contention. The temperatures recited in the biochemical assays disclosed in Ghosal do not relate to the preparation of the antioxidant blend. The disclosure merely purports to the optimal temperatures which Ghosal utilizes to test the antioxidant potential of the blend. Based on Ghosal's disclosure, a skilled artisan would be guided towards

formulating the antioxidant composition at a higher temperature. Based on Applicants' own teachings, such compositions would have substantially different characteristics (for example, antioxidant content, biological activity, etc) than the compositions of the instant invention.

The deficiencies of the secondary reference of Vatter have been previously outlined. For example, Vatter discloses that *a pigment slurry of...mixed tocopherols* (an antioxidant) *are heated with mixing to a melt temperature of 90-115 °C* (see Example V of Vatter et al.). In subsequent Examples VI-VII and XI-XXVIII, it is taught that the components are blended at a melt temperature of 85-90 °C (see col. 28, lines 44-45; col. 29, lines 32-34; col. 33, lines 63-65; col. 35, lines 1-5). There is no hint or suggestion to mix the antioxidants disclosed in the instant specification at a temperature below 60°C.

Neither Ghosal nor Vatter offer any suggestion which would motivate a skilled artisan to combine the cited teachings for the preparation of an anhydrous antioxidant composition claimed herein. There is no mention of a multi-step formulation process described herein (see Examples 1-11, at pg. 16-23). Moreover, a mere combination of Ghosal and Vatter references would fail to render obvious the claims of the instant invention because both Ghosal and/or Vatter, which teach away from the instant invention, lead to compositions that are substantially different from Applicants' anhydrous composition.

The Office Action has failed to establish *prima facie* case for obviousness. Accordingly, the rejection should be withdrawn.

### **Obviousness Type-Double Patenting Rejections**

The rejection under the judicially created doctrine of obviousness-type double patenting over Chaudhuri et al. (US 6,649,150) in view of Vatter et al (US 6,475,600) is respectfully traversed.

In view of the aforementioned arguments and remarks, it is courteously submitted that any contention of obviousness based on the cited teaching of Vatter is moot. Withdrawal of the rejection is respectfully requested.

### **Provisional rejection**

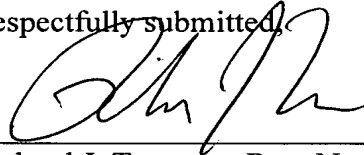
Positive actions to address this rejection at this time would be premature, since no allowable subject matter is indicated amongst the product(s) claimed in claims 1-34. If

necessary, applicants will attend to this rejection after allowable matter is identified.

Withdrawal of the all the rejections, and passage to allowance is courteously requested.

The Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,



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